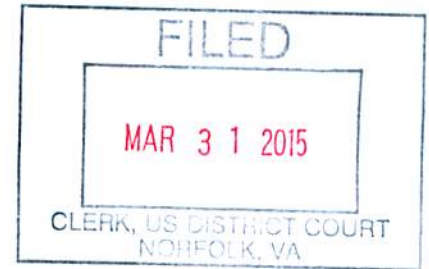


UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Norfolk Division



UNITED STATES OF AMERICA,

v.

Criminal No. 2:14cr137-2

DORETHA SELBY-DIGGS,

Defendant.

ORDER

This matter comes before the court on the Amended Restitution Order submitted to the court by the United States. The Defendant and her council have agreed to and signed the Amended Restitution Order.

The Amended Restitution Order seeks to modify the Restitution Order filed with the court on February 18, 2015. ECF No. 158. Specifically, the original Restitution Order "unintentionally omitted any reference to joint and several liability with the co-defendants in this case." Am. Restitution Order at 1 n.1. The Amended Restitution Order corrects this oversight.

Federal Rule of Criminal Procedure 36 provides that "[a]fter giving any notice it considers appropriate, the court may at any time correct a clerical error in a judgment, order, or other part of the record, or correct an error in the record

arising from oversight or omission." Rule 36 is the proper avenue to make such corrections. See, e.g., United States v. Portillo, 363 F.3d 1161, 1165 (11th Cir. 2004); United States v. Kieffer No. 13-1371, 2014 WL 7238565, at \*6 (10th Cir. Dec. 22, 2014). The Court of Appeals for the Fourth Circuit has cited, with approval, a Court of Appeals for the Eighth Circuit case which held that Rule 36 is the proper avenue to correct the amount of restitution ordered by the court. United States v. Powell, 266 F. App'x 263, 266 (4th Cir. 2008) (citing United States v. Ervasti, 201 F.3d 1029 (8th Cir 2000)).

In this case, the error the Amended Restitution Order seeks to correct does not change the amount of the restitution or the restitution payee. Rather, the omission of language concerning joint and several liability is a clerical error not earlier recognized by the parties. Likewise, the court was not aware of this omission until later Restitution Orders for two co-defendants in this case did contain the relevant joint and several liability language. See ECF Nos. 185, 189. The only change is that the Defendant is now properly jointly and severally liable with her co-defendants.

Accordingly, the court hereby **ENTERS** the Amended Restitution Order. The Clerk is **DIRECTED** to forward a copy of this Order to counsel for the Defendant and to the United States

Attorney at Norfolk, together with the Amended Restitution Order.

IT IS SO ORDERED.

/s/  
Rebecca Beach Smith  
Chief  
United States District Judge *RBS*

REBECCA BEACH SMITH  
CHIEF JUDGE

March 31, 2015